

BAILEY CAVALIERI LI  
ATTORNEYS AT LAW

ICD-11

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EPA Region 5 Records Ctr.



385792

October 22, 2004

RECEIVED

OCT 25 2004

OHIO EPA/CDO

Randy Sheldon  
Ohio EPA  
Central District Office  
Division of Hazardous Waste Management  
3232 Alum Creek Drive  
Columbus, OH 43207-3417

Dear Randy:

I am writing on behalf of Taylor's Industrial Services, Inc., concerning an Ohio EPA Notice of Violation ("NOV") dated August 4, 2004. As we discussed, Taylor's requested copies of some of the documents cited in your NOV as well as copies of the photographs taken during OhioEPA's investigation. We appreciate the opportunity to review this additional information.

The Notice of Violation alleges that Taylor's, along with the former plant owner/operator HPM, and the current plant operator Mid-Ohio Sanitation and Recycling ("MOSR") were in violation of two general environmental laws, including (1) OAC Rule 3745-52-11, failure to make a hazardous waste determination, and (2) OAC Rule 3745-352-20, cessation of regulation operations responsibilities involving an owner or operator of a regulated facility. With respect to the first alleged violation, you listed examples of drums and containers that remain at the site which you believe may contain hazardous materials or hazardous wastes.

As you may know, Taylor's purchased equipment and inventory from Fleet Capital, a financial institution which had repossessed those assets from HPM pursuant to a loan agreement. The asset purchase was first finalized in July, 2001 and then amended several times during the following 12 months. Following the asset purchase, Taylor's removed equipment and inventory from Plant #1 and transferred operations to Plant #2 where it currently conducts its manufacturing operations. Taylor's does not own or operate Plant #1 nor does it currently have access to the property without explicit permission from MOSR. MOSR has purchased the property "as is" and "with all faults" after obtaining and accepting a Phase I Environmental Investigation Report, which cited the environmental issues stated in your letter.

We believe that Ohio EPA may have been somewhat misled concerning the nature and extent of Taylor's alleged involvement at the site. We understand that it is more difficult for Ohio EPA to enforce its laws against a bankrupt corporation but that cannot excuse allowing such an entity to avoid liability by pointing the finger at someone else. Despite Taylor's concerns about the violations cited in your August 4, 2004 Notice of Violation and without admission of liability, Taylor's will move forward to address the issues cited by conducting a visual investigation of the site to better characterize the nature and extent of the violations listed. We are in the process of

# BAILEY CAVALIERI LLC

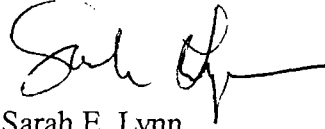
Randy Sheldon  
October 22, 2004  
Page 2

attempting to gain permission to enter the property from the current owner of the site, MOSR, to conduct a visual survey. We hope to get access to the site sometime next week but cannot guarantee when or if MOSR will grant entry to the premises.

Taylor's is a small business with limited resources. We hope to address OhioEPA's concerns in a way to best focuses our resources while addressing the environmental issues cited. We will contact the Ohio EPA to further discuss this matter as soon as we have an opportunity to assess the site. We would also be happy to sit down to discuss this matter with OhioEPA representatives. We would hope that MOSR and the HPM Bankruptcy Trustee would also be willing to work with OhioEPA to discuss a mutually acceptable resolution to this matter. In the meantime, if you have any questions, please feel free to contact me at 614-229-3261.

Very truly yours,

BAILEY CAVALIERI LLC



Sarah E. Lynn

SEL/jlp  
Enclosures  
cc: Joseph A. Filos, Jr.



State of Ohio Environmental Protection Agency

ICD-6

**Central District Office**

**STREET ADDRESS:**

3232 Alum Creek Drive  
Columbus, OH 43207-3417

**TELE:** (614) 728-3778 **FAX:** (614) 728-3898

**MAILING ADDRESS:**

P.O. Box 1049  
Columbus, OH 43216-1049

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

August 4, 2004

Re: Morrow County  
OHD980569230  
(Former) HPM Plant #1  
Notice of Violation

HPM Bankruptcy Estate (7003 1010 0004 4224 1290)  
% Ms. Sara Daneman  
62 Mill Street  
Gahanna, OH 43230

and

Taylor Industrial Services (7003 1010 0004 4224 1283)  
% Mr. Richard Eichler  
820 Marion Road  
Mt. Gilead, OH 43338

and

Mid-Ohio Sanitation & Recycling (7003 1010 0004 4224 2358)  
% Mr. Earl Linder  
218 Williams Street  
Edison, OH 43320

Dear Ms. Daneman, Mr. Eichler, and Mr. Linder:

On July 17, 2004, Ohio EPA conducted an investigation and review of the property located at 394 Lincoln Avenue in Mt. Gilead, Ohio. During this investigation and review, Ohio EPA was represented by Phil Farnlacher, Division of Solid & Infectious Waste Management and me. The current property owner, Mid-Ohio Sanitation & Recycling, was represented by Mr.



Earl Linder and Mr. Randy Chilcote during the investigation.

A review of background information indicates that HPM was a generator of hazardous waste at the Lincoln Avenue/Plant #1 and Marion Road/Plant #2 facilities. Taylor Industrial Services took over operations from HPM at both the Plant #1 and Plant #2 facilities. On September 21, 2001, Mr. Richard Eichler called to notify me that all production operations at the former HPM Plant #1 would be ceasing in the near future and the plant would close. It was determined that Plant #1 was a reporting facility that was going to discontinue regulated operations, as defined in Ohio Administrative Code (OAC) rules 3745-352-05(E)&(EE), based on the Emergency Planning and Community Right-to-Know Act filing received February 21, 2001 by Taylor Industrial Services (also see OAC rule 3745-352-10(C))(enclosure 1). A letter with cessation of regulated operations (CRO) requirements and associated filing forms were mailed to Mr. Eichler on this same day (enclosure 2). Mr. Eichler did not respond to this letter.

On March 18, 2004, Ms. Jessica Davis of Luper, Neidenthal, & Logan, reportedly representing the HPM bankruptcy estate, called to inform me that Taylor Industrial Services was behind on rental/lease payments for the former Plant #1 facility and that the Morrow County Sheriff would be requested to place equipment, wastes, discarded materials, etc. of Taylor Industrial Services into the street. Ms. Davis was informed that placement of wastes or discarded materials into the street would not be proper and I informed her of the CRO requirements. On March 19, 2004, Ms. Davis was mailed the CRO requirements and associated filings forms (enclosure 3). Ms. Davis did not respond to this letter. After several telephone calls, Ms. Sara Daneman, HPM bankruptcy estate trustee, informed me that the HPM Plant #1 facility had been sold to Mid-Ohio Sanitation & Recycling (MOSR). Based upon a telephone conversation with Mr. Earl Linder of MOSR, he indicated that there were several containers of wastes and/or discarded materials of various quantities remaining at the Plant #1 facility. He also indicated that although Taylor Industrial Services was removing some of the wastes, discarded materials, and equipment, it was going very slowly. We then scheduled the investigation and review of the facility for July 15, 2004.

During the investigation and review, several tanks and containers of wastes and/or discarded materials were viewed and photographed. Below is a listing of some of these wastes or discarded materials and their locations. This listing is not all inclusive:

- i. One (1) ~1,000 gallon poly tank inside the west end of building near the overhead door labeled HOCUT 797-E Coolant, Houghton International Inc., Valley Forge, PA that was partially filled;
- ii. A 55-gallon container inside the west end of the building near the overhead door labeled TC-267-C, TRU CHEM, Columbus, OH that was partially filled;
- iii. Two (2) ~1,300 gallon poly tanks outside the west end of the building that

- iv. were partially filled with an unknown liquid;
- iv. Several ~300 gallon poly tote tanks located both inside and outside the building containing unknown liquids;
- v. Many 55-gallon metal containers located both inside and outside the building containing unknown liquids;
- vi. An underground oil storage tank located at the west end of the building, quantity unknown; and
- vii. Small containers of wastes or discarded materials throughout the building.

Mr. Linder indicated that MOR planned to use the east end of the building for their operations and hoped to lease/rent the remainder of the building, once it was cleared and cleaned of the wastes, discarded materials, and equipment. MOR employees are at the facility during normal working days and hours. The facility is entirely fenced and remains locked when the MOR employees are not at the site. Other smaller buildings within the fenced facility are currently under renovation by MOR, but no HPM/Taylor Industrial Services wastes, discarded materials, or equipment are present in or around these buildings.

Based on the finding of this inspection, it has been determined that HPM, Taylor Industrial Services, and Mid-Ohio Sanitation & Recycling are currently in violation of the following OAC rules:

- 1) **OAC rule 3745-52-11, Hazardous Waste Determination:** Any person who generates a waste, as defined in OAC rule 3745-51-02, must determine if that waste is a hazardous waste. For this determination, generator knowledge, analytical testing, or a combination of each can be used.

Owners and/or operators of facilities that generate wastes and/or house discarded materials are subject to the specifications of this rule.

All wastes and/or discarded materials must be immediately evaluated to determine if they are hazardous wastes. Once adequate characterization is completed, appropriate management and/or disposal must be conducted. Should any of these wastes and/or discarded materials be determined to be hazardous, additional hazardous waste management rules and/or violations could be applicable.

- 2) **OAC rule 3745-352-20, CRO Responsibilities for an Owner or Operator:** An owner or operator of a regulated facility that has permanently ceased all regulated operations must submit a notice of cessation of regulated operations to the director, the local emergency planning committee, and the fire department, using form EPA 0327, not later than thirty (30) days after cessation of regulated operations. Not

later than ninety (90) days after cessation of regulated operations, additional filing requirements and actions must be taken, as stipulated by this rule. Persons responsible for complying with this rule could be one or more of the following: an owner or operator of the facility; a holder of a first mortgage on real property; a fiduciary for a facility; and/or a receiver appointed under Chapter 2735. of the Revised Code for a facility.

It was reported that Taylor Industrial Services had ceased all operations and/or vacated the Lincoln Avenue property in January 2004.

Filing of the respective CRO forms with the specified authorities, in addition to the stipulated actions regarding management of wastes or discarded materials required by this rule, must be completed.

All requested actions and associated documentation required to abate these violations should be completed and submitted to this office for review, at the letterhead address, within thirty (30) days of receipt of this letter. Failure to do so could lead to a referral to the Central Office enforcement staff for escalated enforcement actions.

Should you have any questions, I can be reached by telephone at 614-728-5037. You can find copies of the rules and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>. Ohio EPA also has helpful information about pollution prevention at the following web address: <http://www.epa.state.oh.us/opp>.

NOTICE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve any person from having to comply with all applicable regulations.

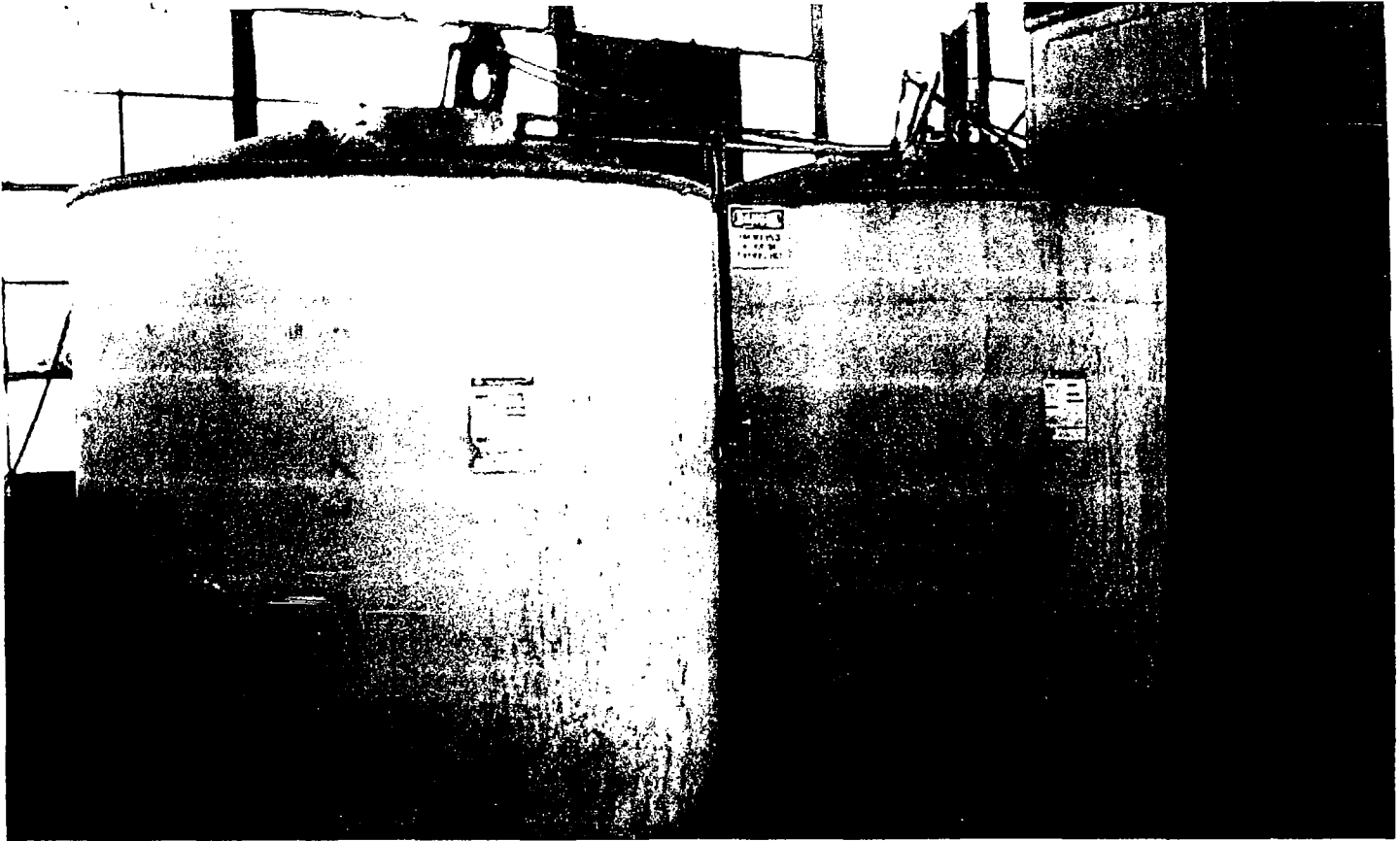
Respectfully,



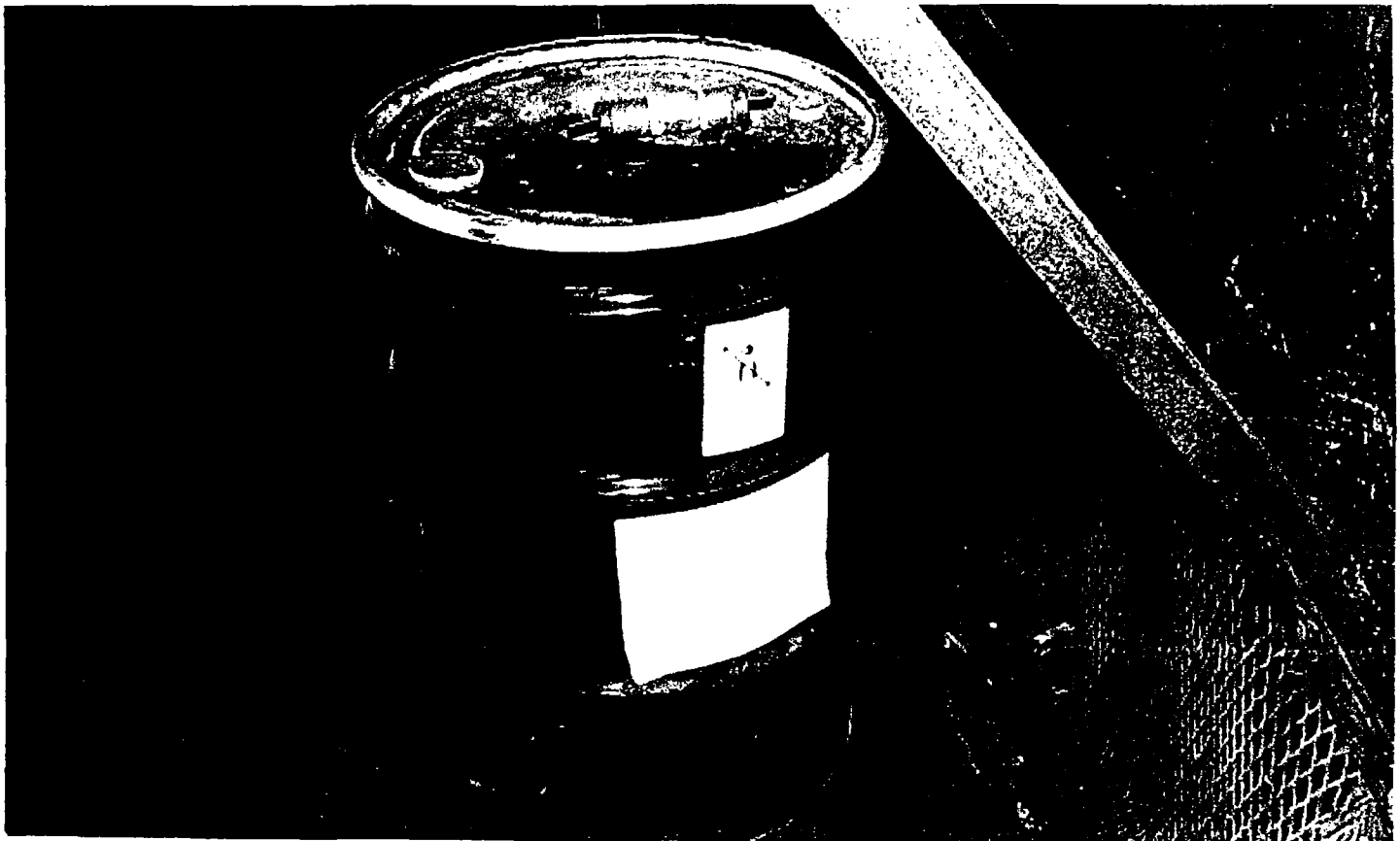
Randy Sheldon  
Division of Hazardous Waste Management  
Central District Office

Enclosures

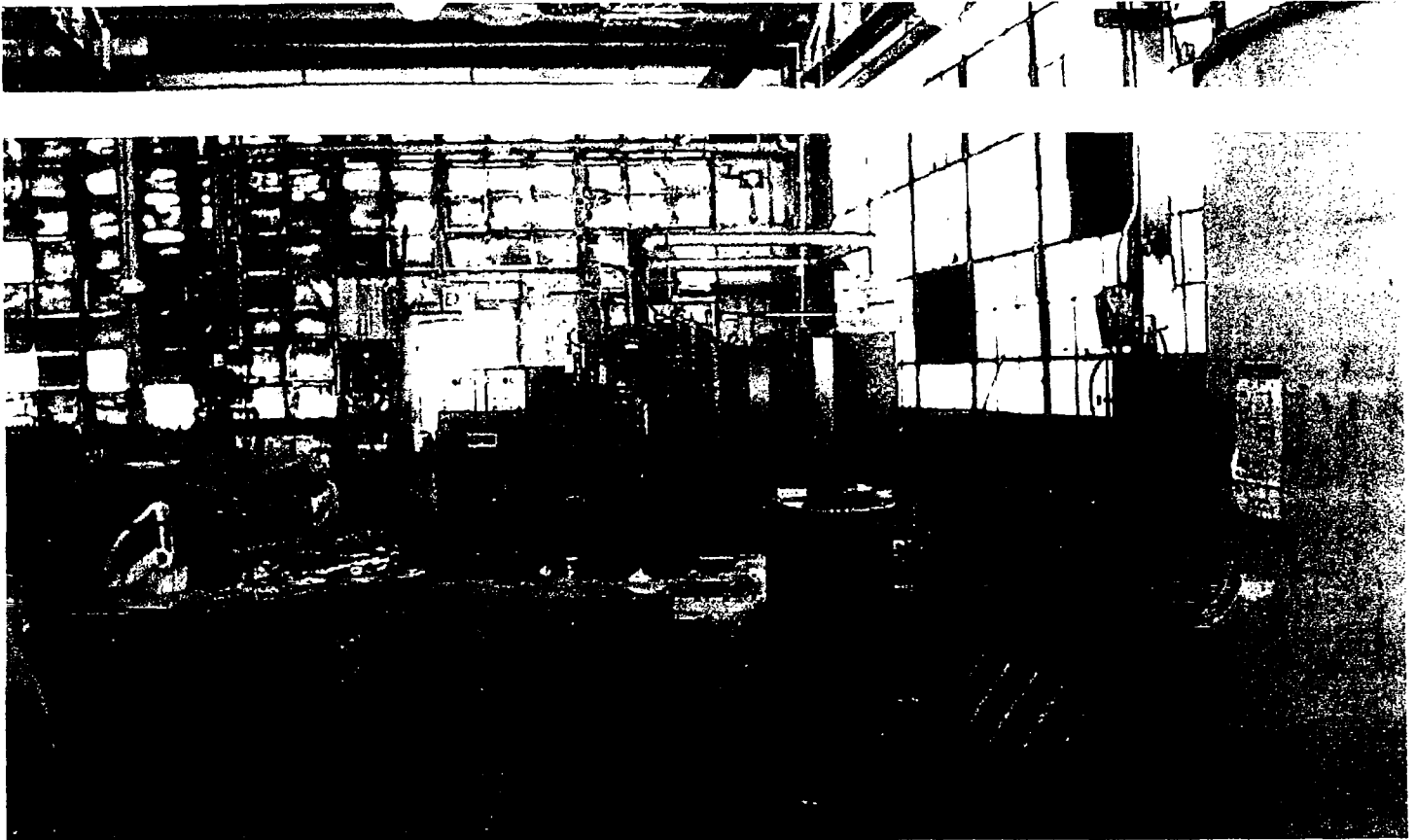
cc: Tammy McConnell, DHWM, CO  
Ralph McGinnis, DHWM, CO  
Phil Farnlacher, DSIWM, CDO  
DHWM, CDO File



Former HPM Plant 1; 7-15-04; partially filled tank (1 @ ~1,000 gallons) located at the west end of the building near the overhead doors leading to the dock area. The tank is labeled HOCUT 797-E Coolant, Houghton International Inc. Adjacent tank appeared to be empty (NW).



Former HPM Plant 1; 7-15-04; partially filled 55-gallon container located at west end of building near overhead door area. The container was labeled TC-267-C, TRU CHEM, Columbus, OH (SE).



Former HPM Plant 1; 7-15-04; equipment and containers located at southwest corner of building, contents of equipment/containers unknown (S).

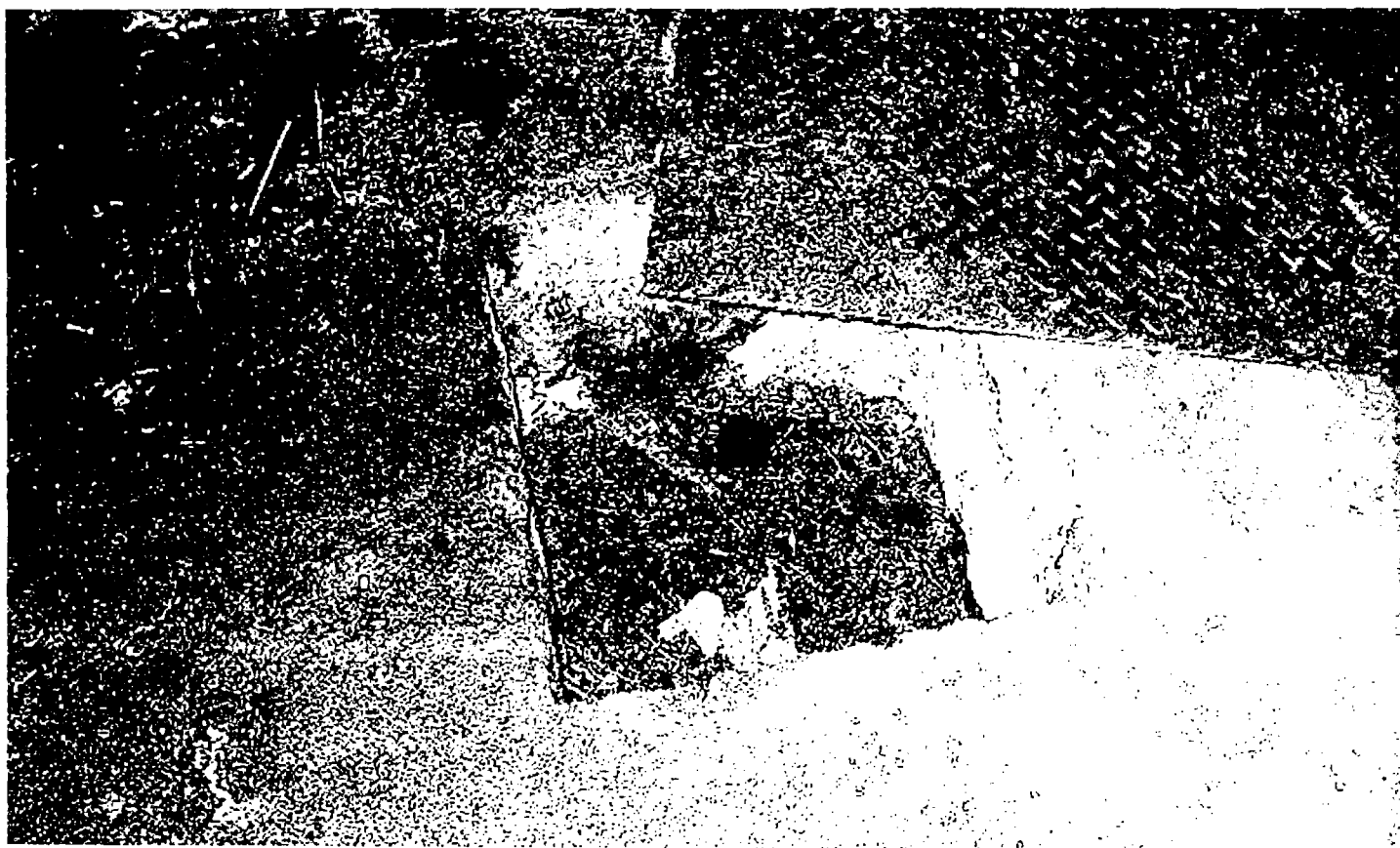


Former HPM Plant 1; 7-15-04; equipment and containers located on north side of west end of building, contents unknown (NE).

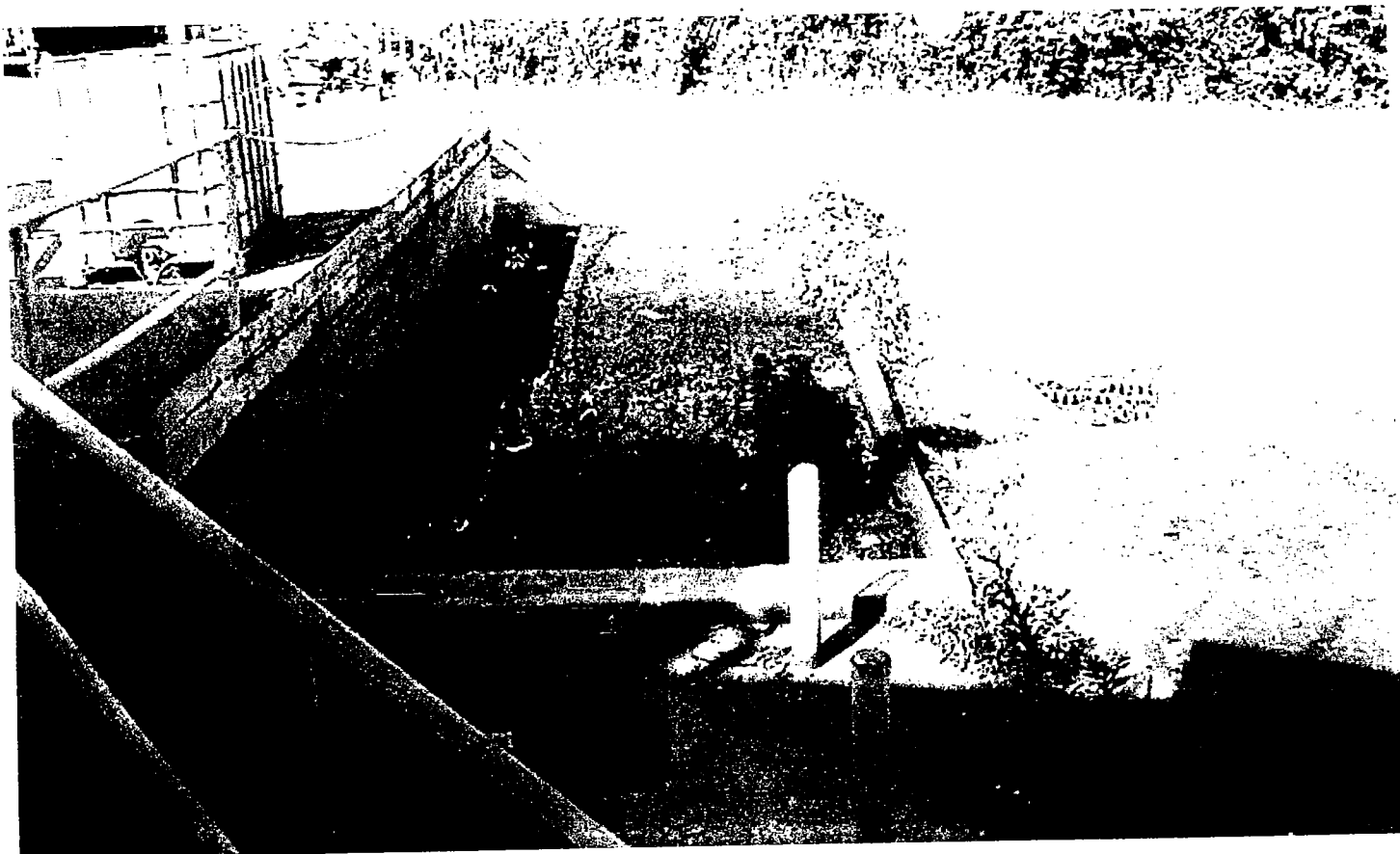




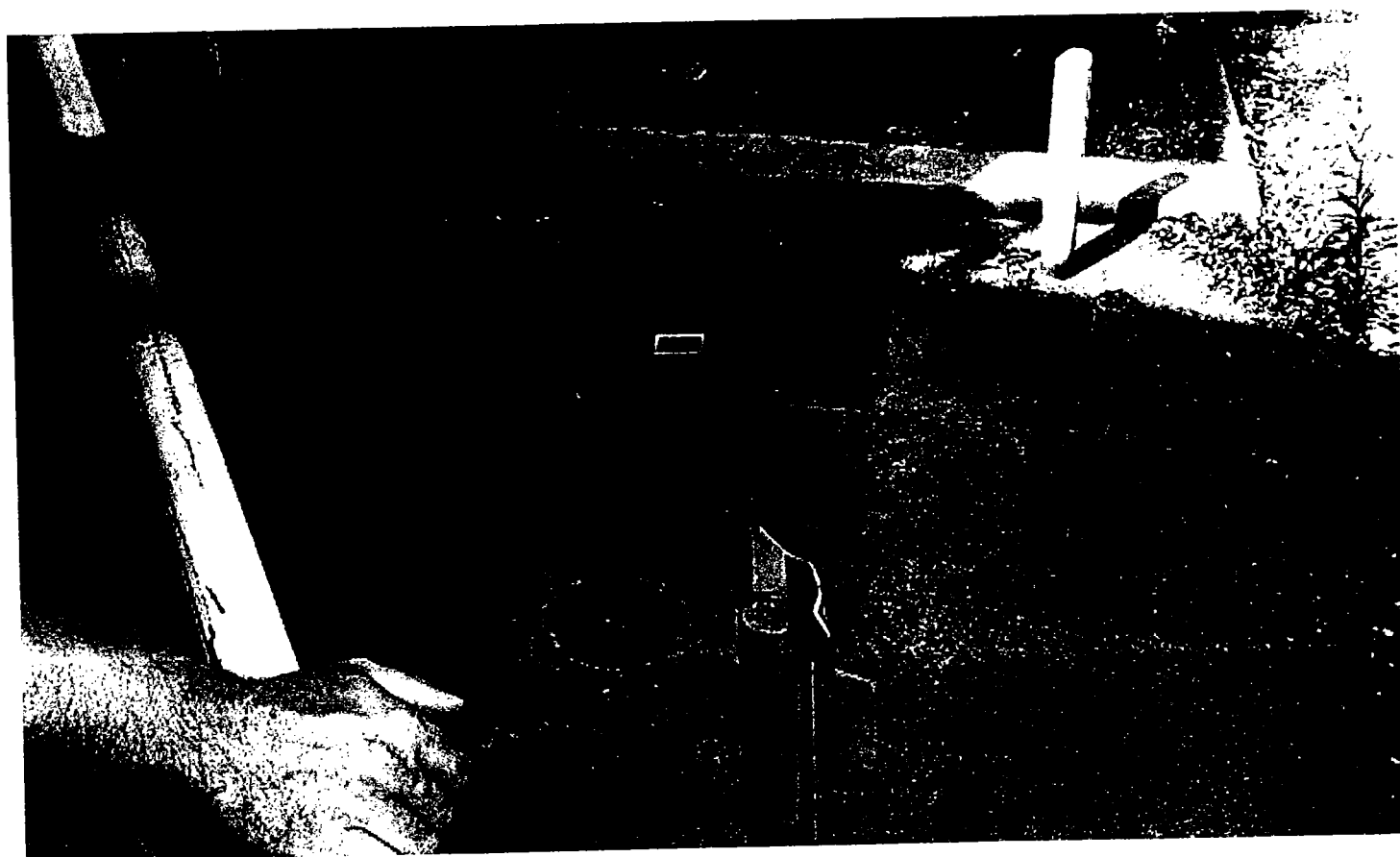
Former HPM Plant 1; 7-15-04; equipment and containers located on south side of the west end of the building, contents of equipment/containers unknown (SE).



Former HPM Plant 1; 7-15-04; open sump, or possibly equipment foothold, filled with oily debris located on south side of the west end of the building, drainage (if any) unknown.



Former HPM Plant 1; 7-15-04; used oil unloading area/sludge pit within concrete berms at underground tank area, dark oily sludge is visible at the top of the yellow post, all is located outside at west end of the building adjacent to the dock area (W).



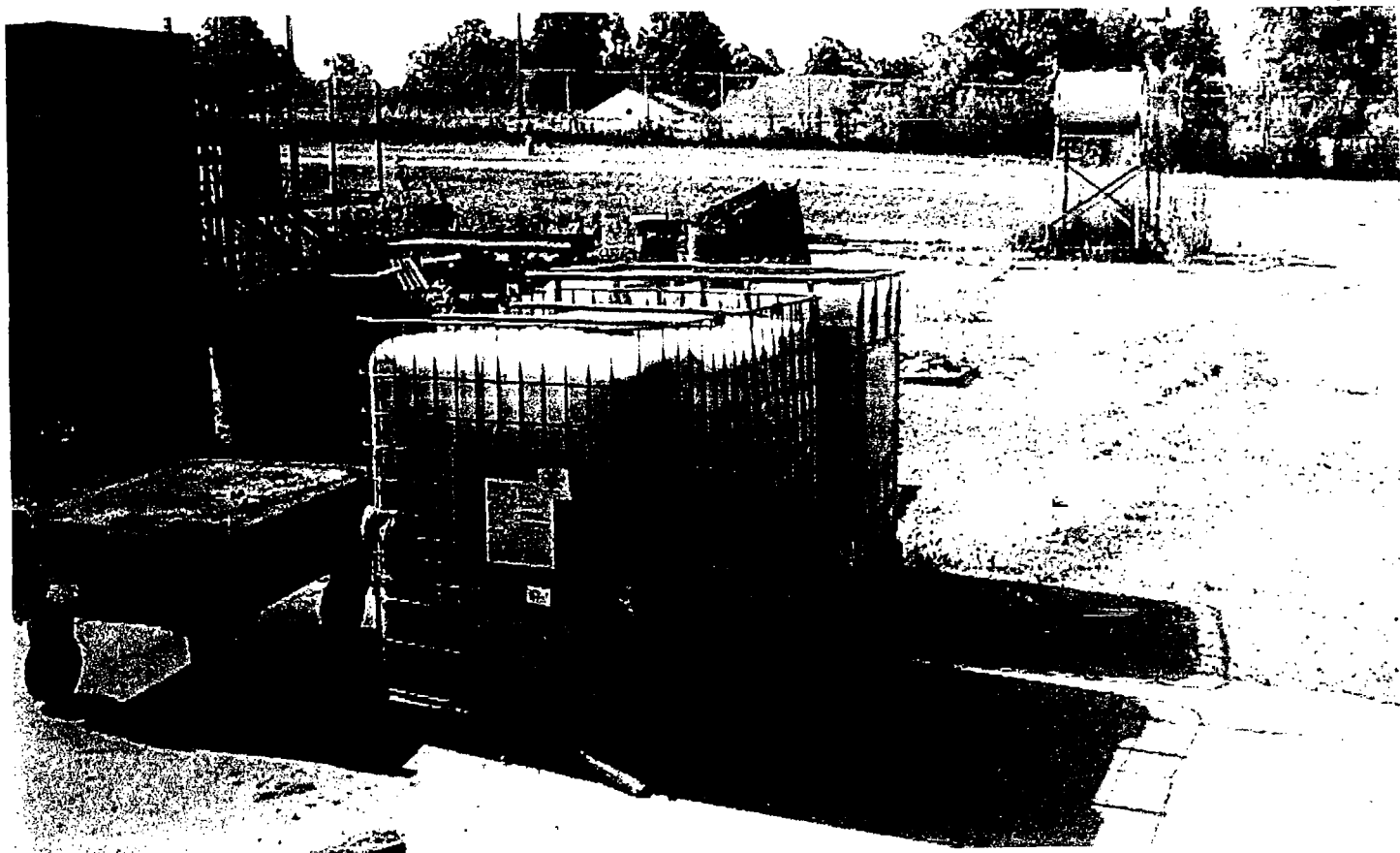
Former HPM Plant 1; 7-15-04; underground oil tank area within yellow posts, contents of tank unknown, notice dark sludge/debris within berms at the top of the photo, all located outside west end of building adjacent to dock area (NW).



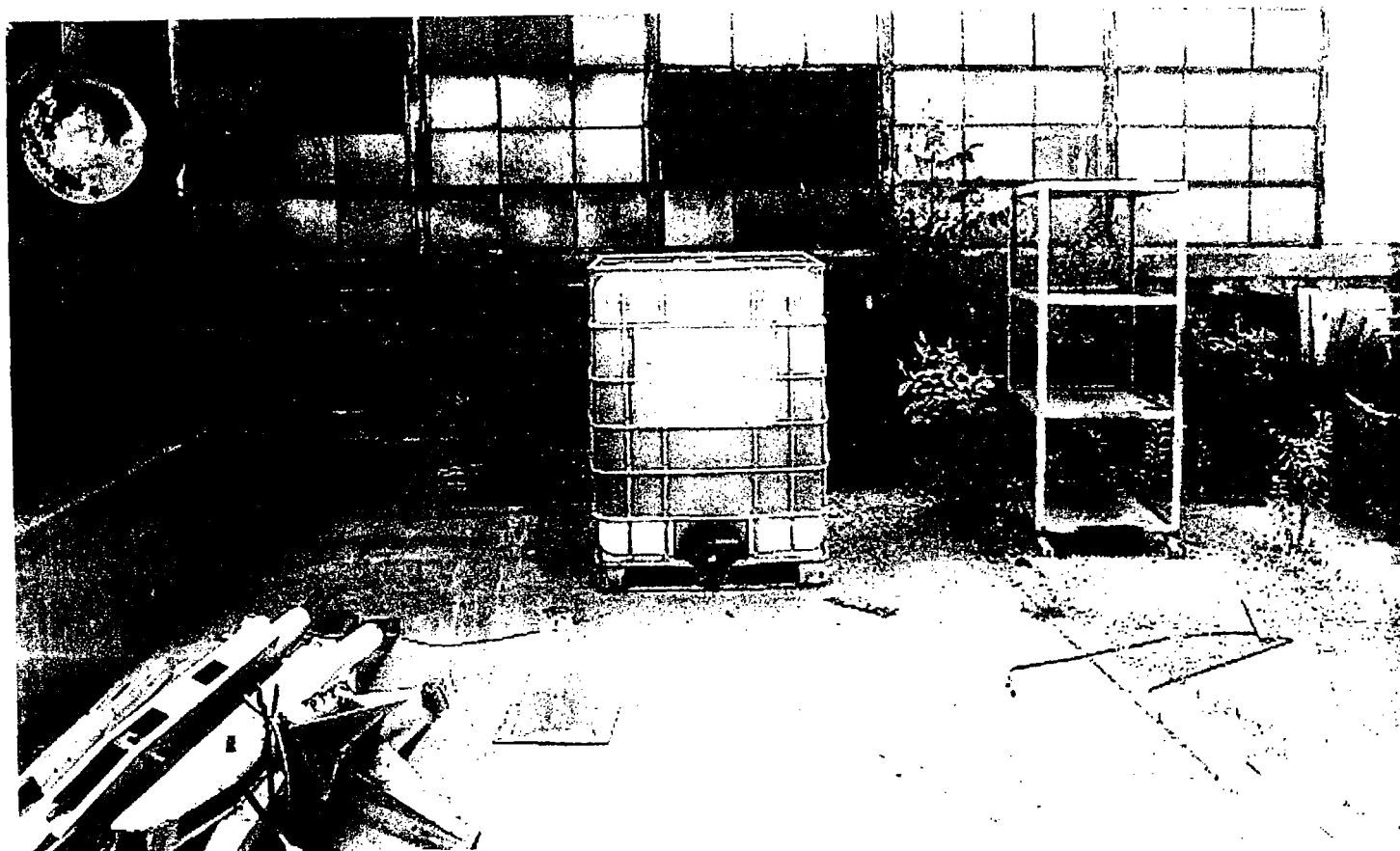
Former HPM Plant 1; 7-15-04; monitoring wells located near underground tank area (see well caps) outside the west end of the building near the dock area (NW).



Former HPM Plant 1; 7-15-04; partially filled totes with unknown contents (2 @ ~300 gallons) located on dock area outside of west end of building (E).



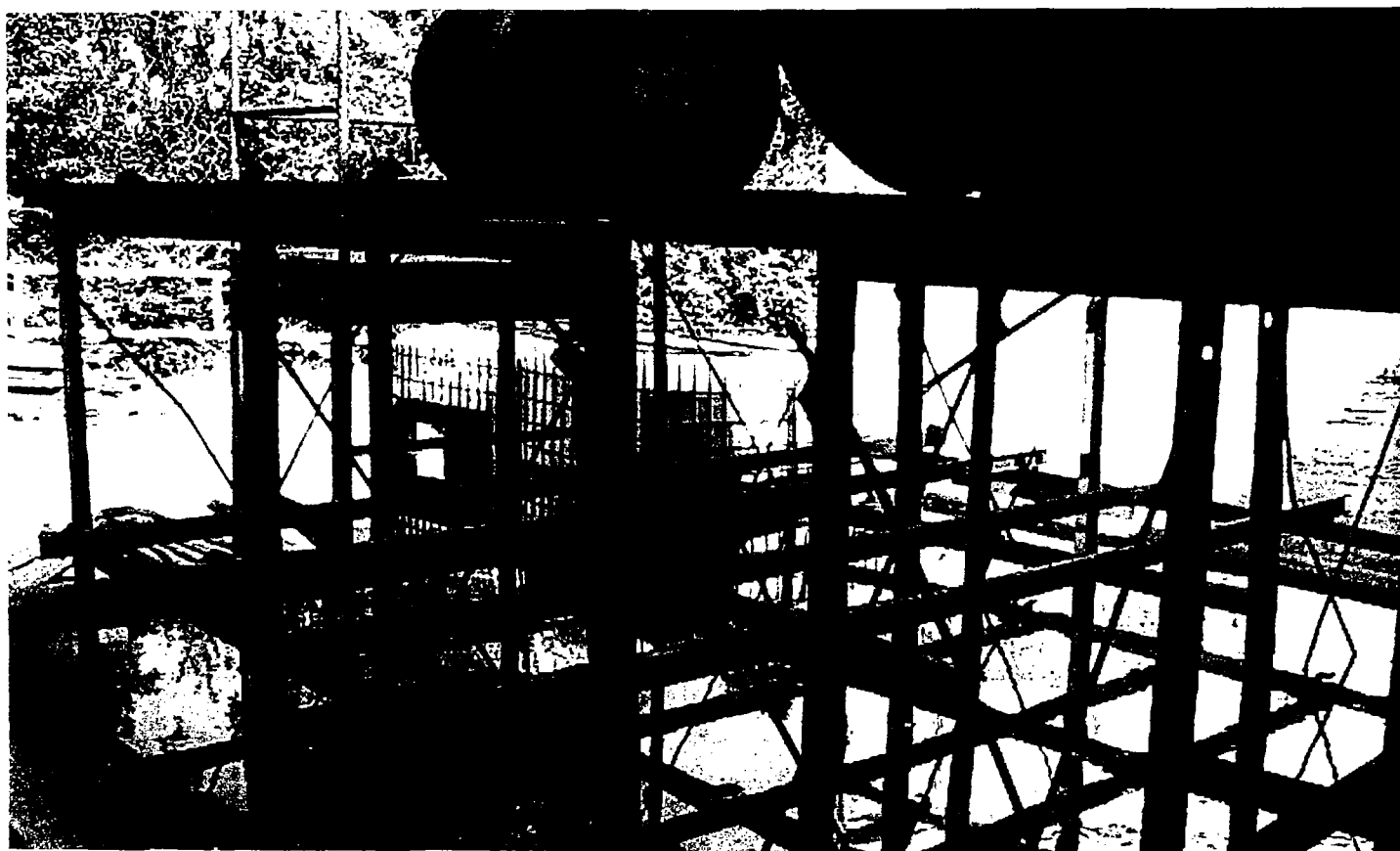
Former HPM Plant 1; 7-15-04; partially filled totes with contents unknown (2 @ ~300 gallons) located on dock area outside of the west end of the building. Fuel tank in upper right of photo was reportedly empty (S).



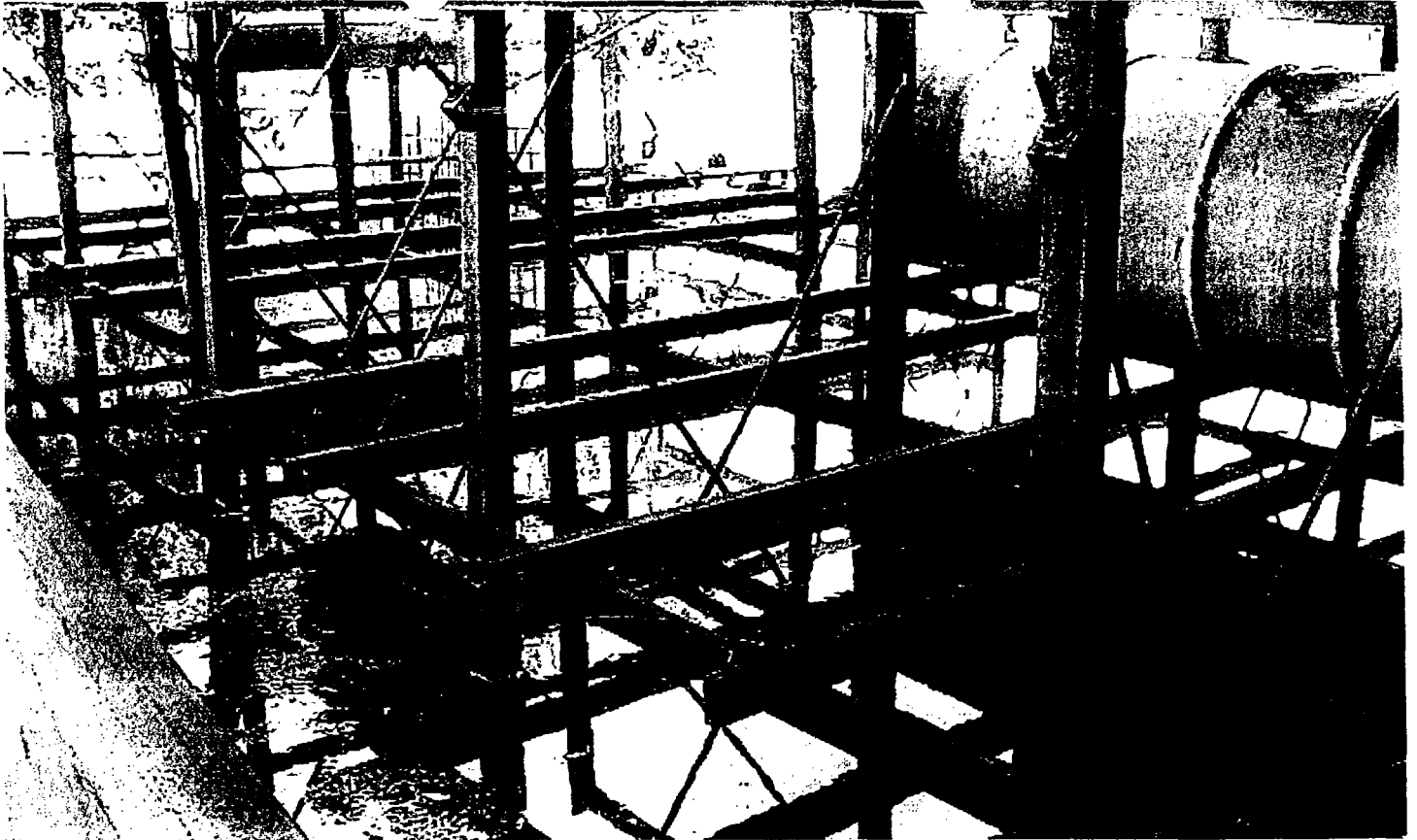
Former HPM Plant 1; 7-15-04; filled tote (1 @ ~300 gallons) with contents unknown located on dock area outside of the west end of the building (E).



Former HPM Plant 1; 7-15-04; 55-gallon container holding rack area with concrete dike located on dock area outside of the west end of the building, contents of containers unknown, diked area filled with water with visible sheen (N).



Former HPM Plant 1; 7-15-04; 55-gallon container rack area located on dock outside of the west end of the building, sheen is visible in photo on water in dike area (NW).



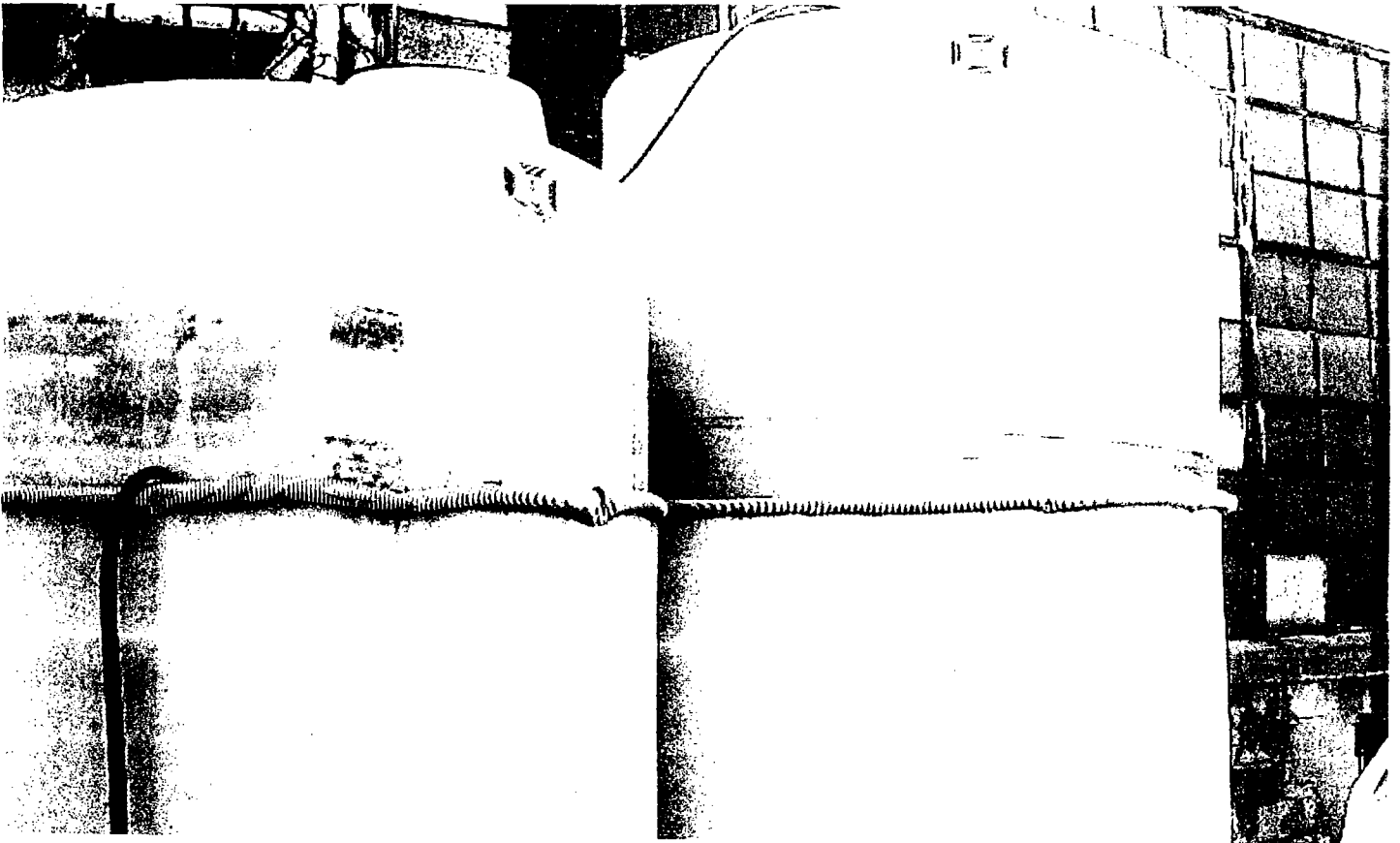
Former HPM Plant 1; 7-15-04; 55-gallon container rack area on dock outside west end of the building, diked area is filled with water with oily sheen visible (NW).



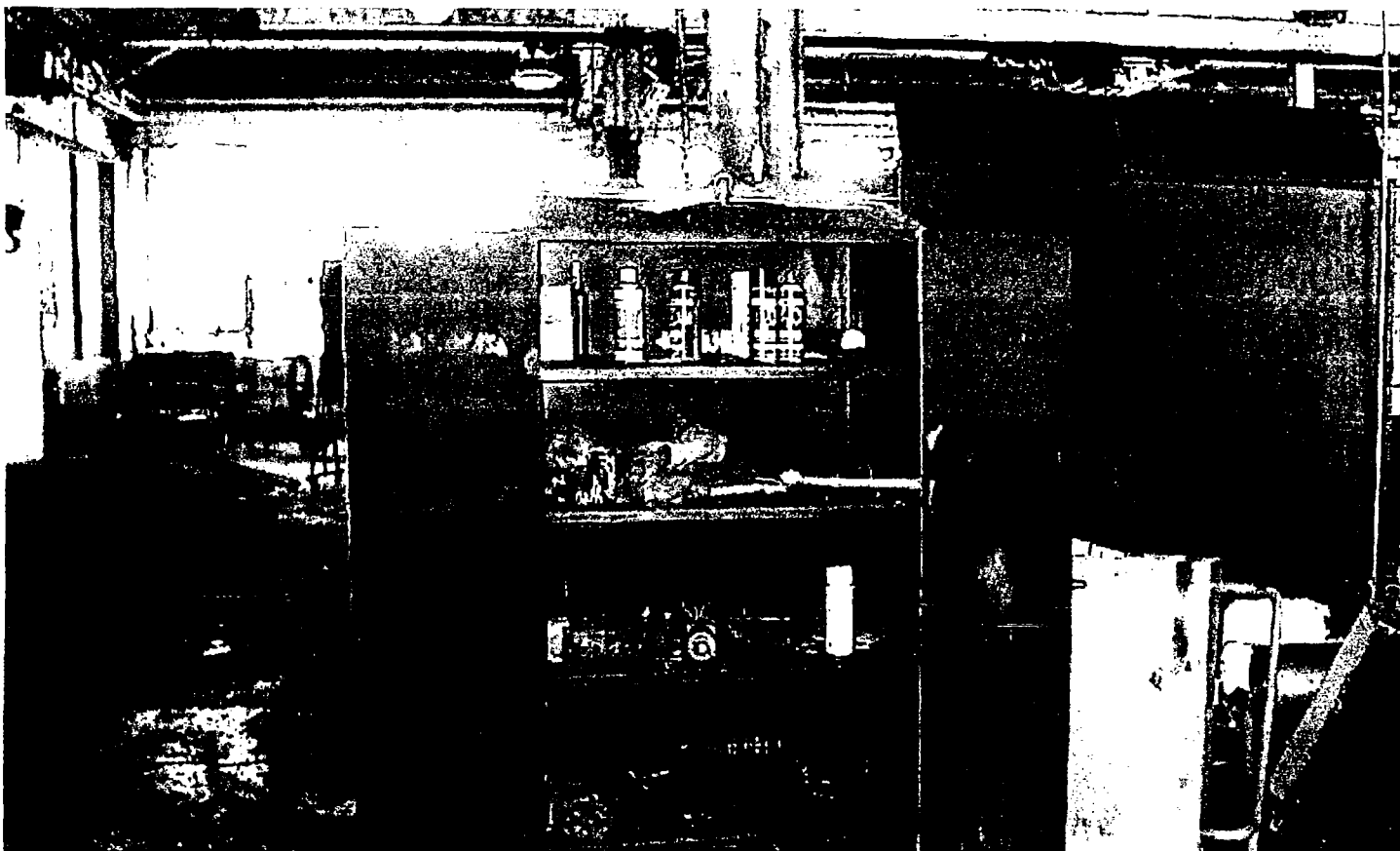
Former HPM Plant 1; 7-15-04; semi trailer located adjacent to the dock outside of west side of the building, trailer reportedly used for management of general trash/solid wastes (S).



Former HPM Plant 1; 7-15-04; open 55-gallon containers of waste (contents unknown) located on dock area outside west end of building adjacent to the diked rack area (S).



Former HPM Plant 1; 7-15-04; partially filled tanks (2 @ ~1,300 gallons) with contents unknown located on dock area outside west end of building (E).



Former HPM Plant 1; 7-15-04; partially used products/containers located in cabinet on south side of building in the western portion (S).

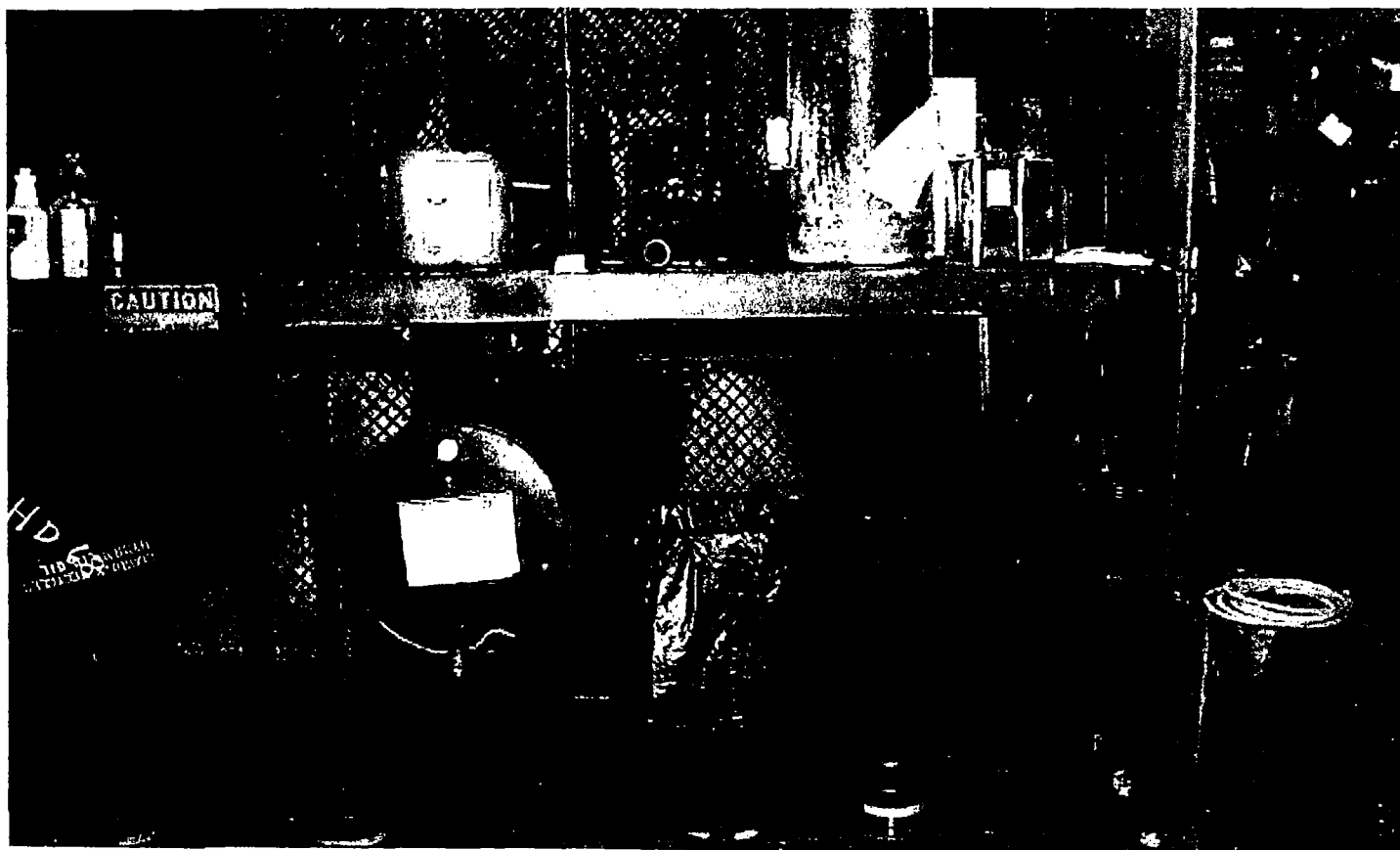


Former HPM Plant 1; 7-15-04; oily sludge and debris on floor in western end of building.





Former HPM Plant 1; 7-15-04; various partially filled containers, mostly of unknown contents, in holding rack located in middle portion of building (S).



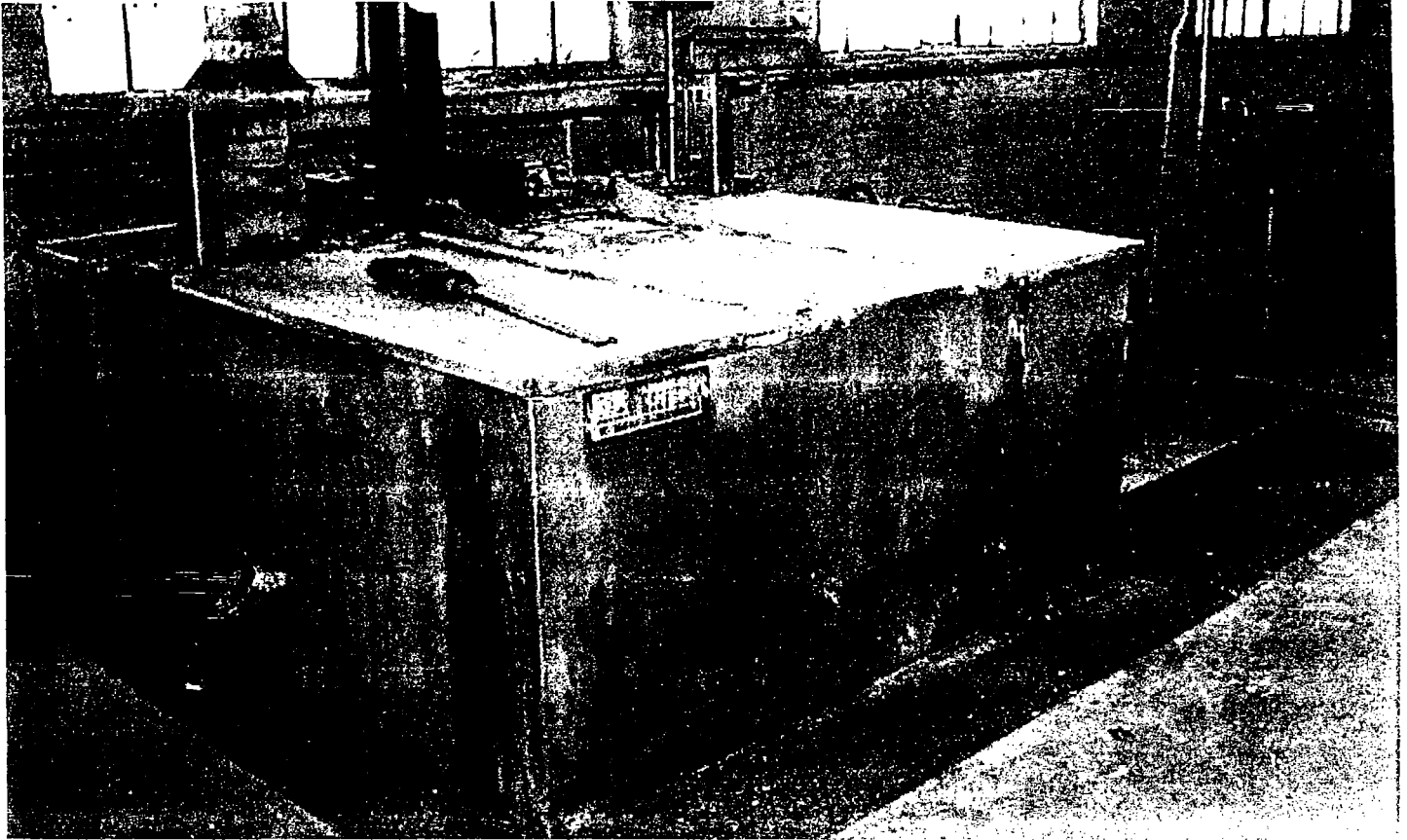
Former HPM Plant 1; 7-15-04; various partially filled containers, with unknown contents, in holding rack located in middle of building (S).



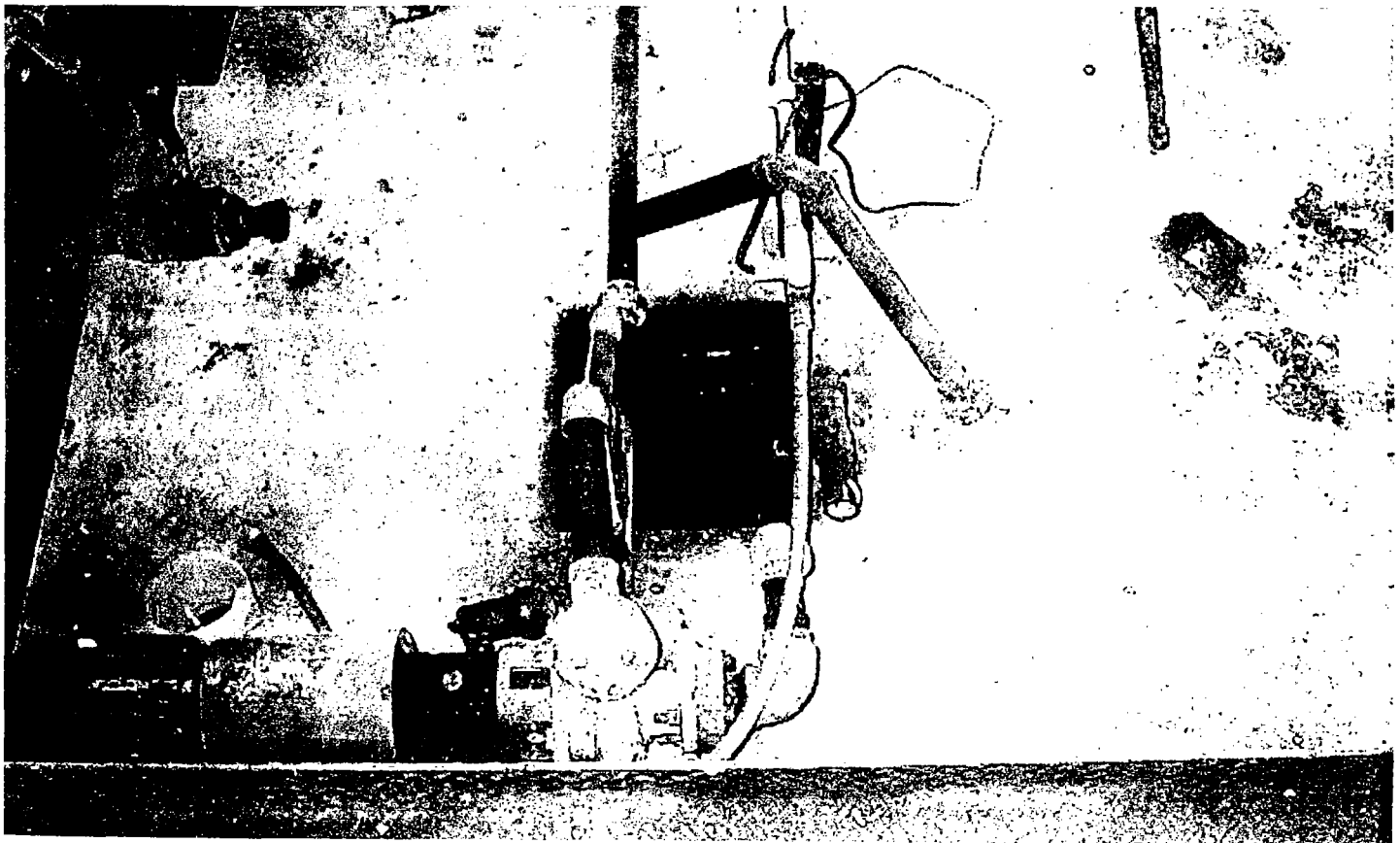
Former HPM Plant 1; 7-15-04; various equipment located on south side of middle area of building, equipment contents unknown (SE).



Former HPM Plant 1; 7-15-04; equipment and waste pile located on north side of middle area of building, near opening in building (NE).



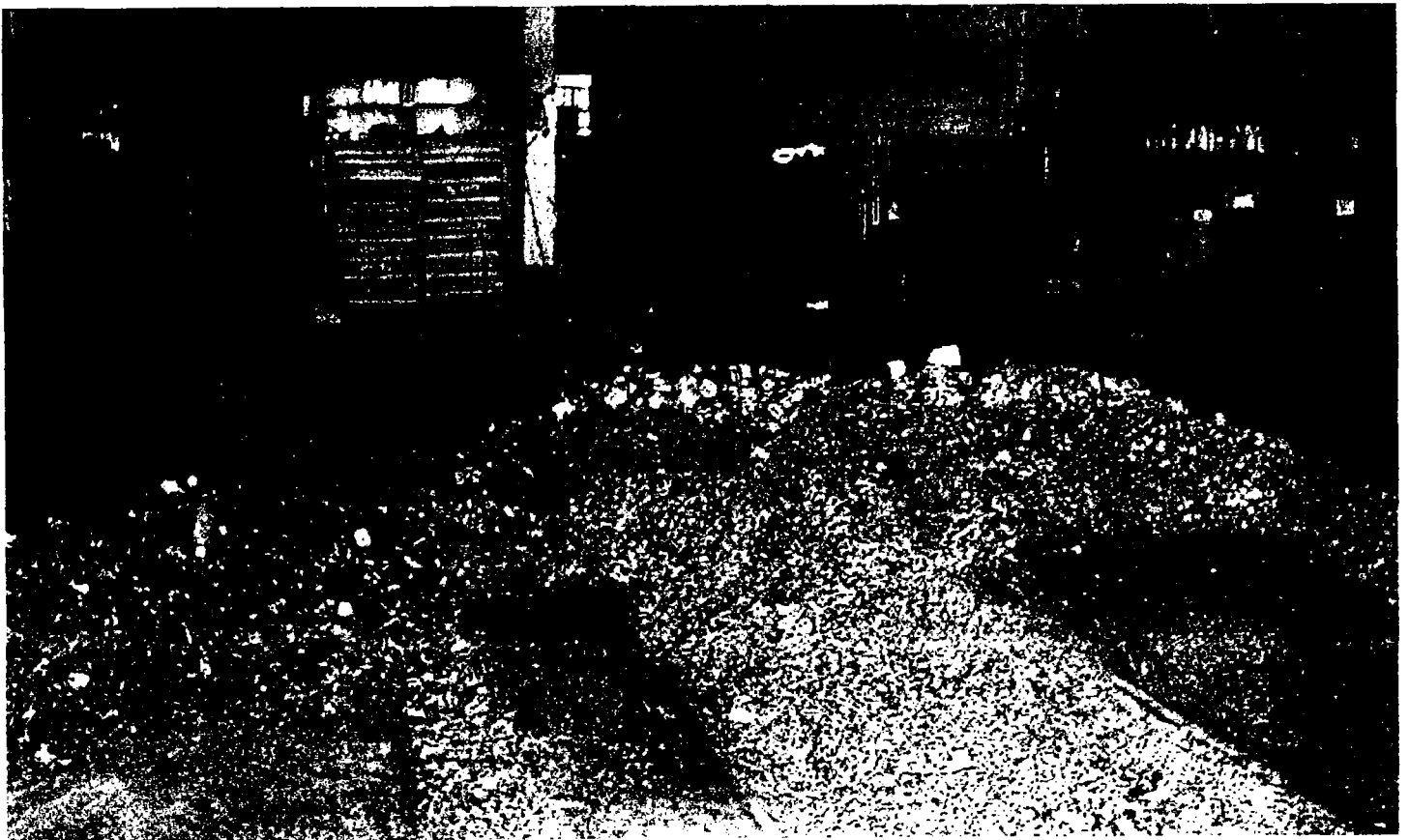
Former HPM Plant 1; 7-15-04; equipment on north side of middle area of building that was located in a concrete vault/pit, all liquid wastes and main part of equipment reportedly already removed by TIS as it was deemed very valuable (NE).



Former HPM Plant 1; 7-15-04; former vault/pit area for a piece of equipment located on north side of middle area of building reportedly removed by TIS, all liquid waste also reportedly removed, notice liquid in sump area/floating debris.



Former HPM Plant 1; 7-15-04; former vault/pit area for piece of equipment located on north side of middle area of building, equipment and all wastes from this area were reportedly removed by TIS (E).



Former HPM Plant 1; 7-15-04; waste pile located inside open door on north side of the middle of the building (S).



Former HPM Plant 1; 7-15-04; equipment of unknown contents located on south side of east end of building (E).



Former HPM Plant 1; 7-15-04; equipment with unknown contents located on south side of east end of building (SE).



Former HPM Plant 1; 7-15-04; partially filled tote of unknown contents (1 @ ~300 gallons) located on south side of east end of building (S).



Former HPM Plant 1; 7-15-04; containers of unknown wastes located in the middle of the east end of building near the open door area (NE).



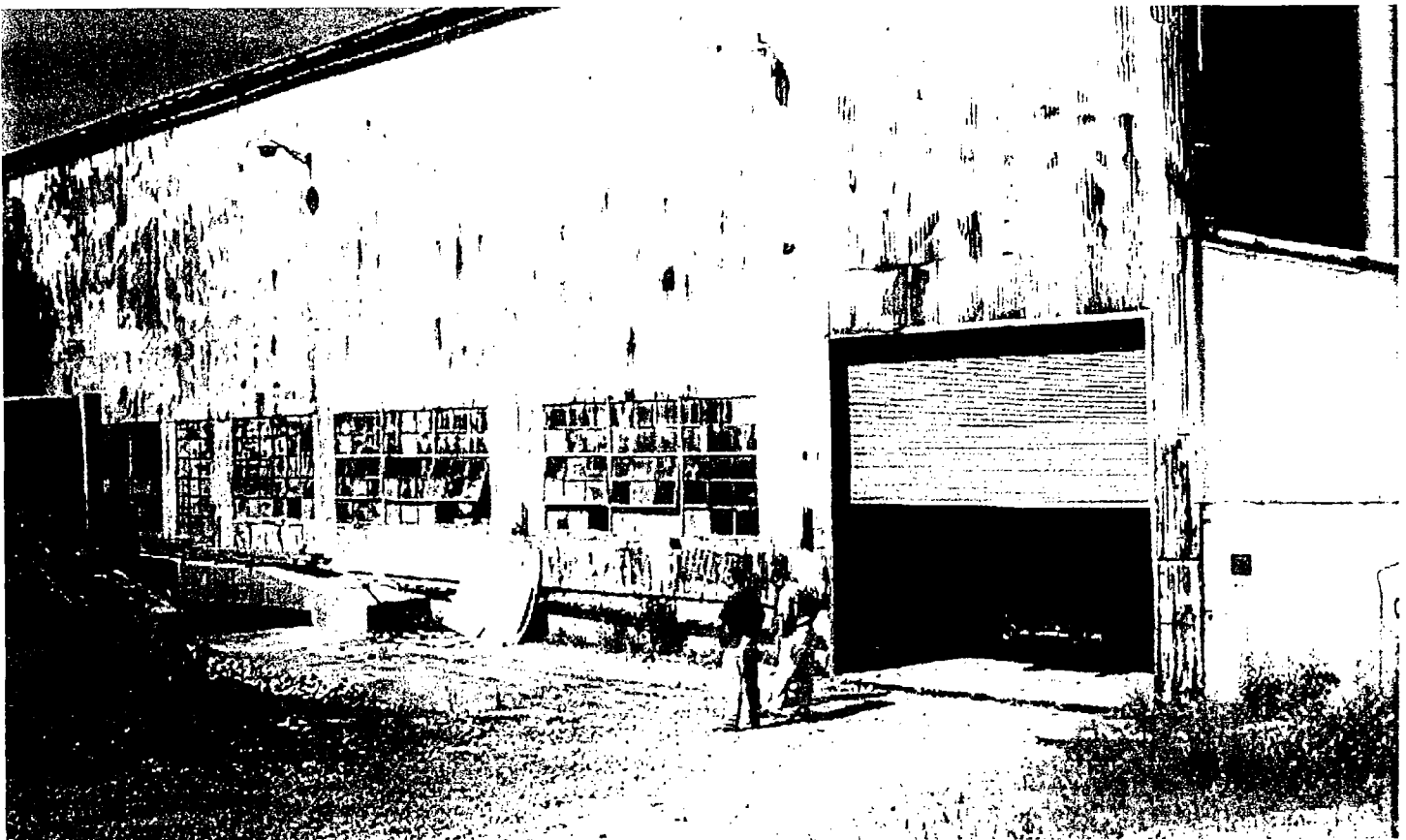
Former HPM Plant 1; 7-15-04; grated sump/drain area in middle of east end of building, if any drainage occurs it is not known to where (NW).



Former HPM Plant 1; 7-15-04; area under construction for future management of solid wastes/recyclables (S).



Former HPM Plant 1; 7-15-04; view of north side of building from the far east end, area is surrounded by chain-link fence (W).

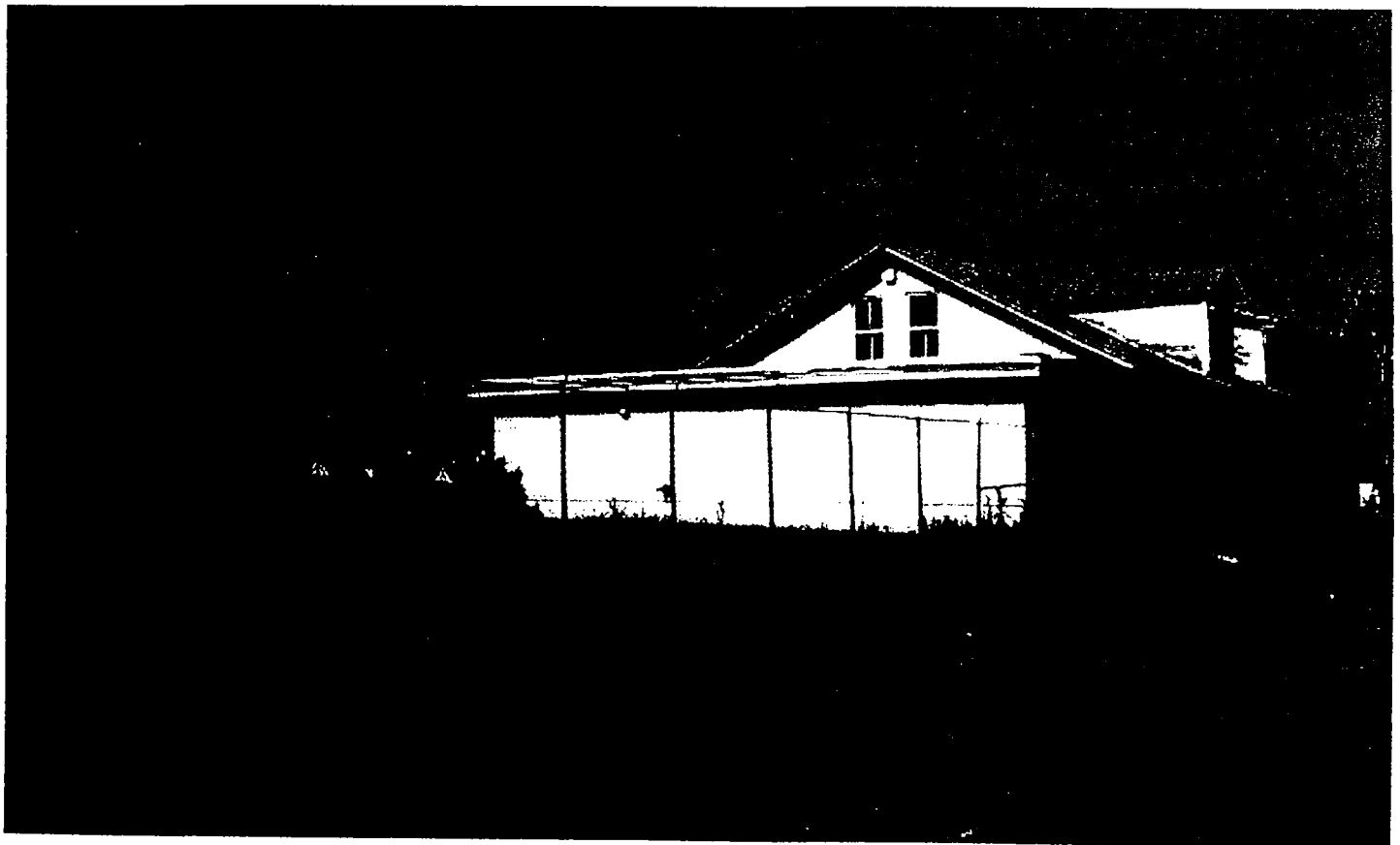


Former HPM Plant 1; 7-15-04; view of northeast corner of building with open door area, adjacent to new construction area for management of solid wastes/recyclables (SW).

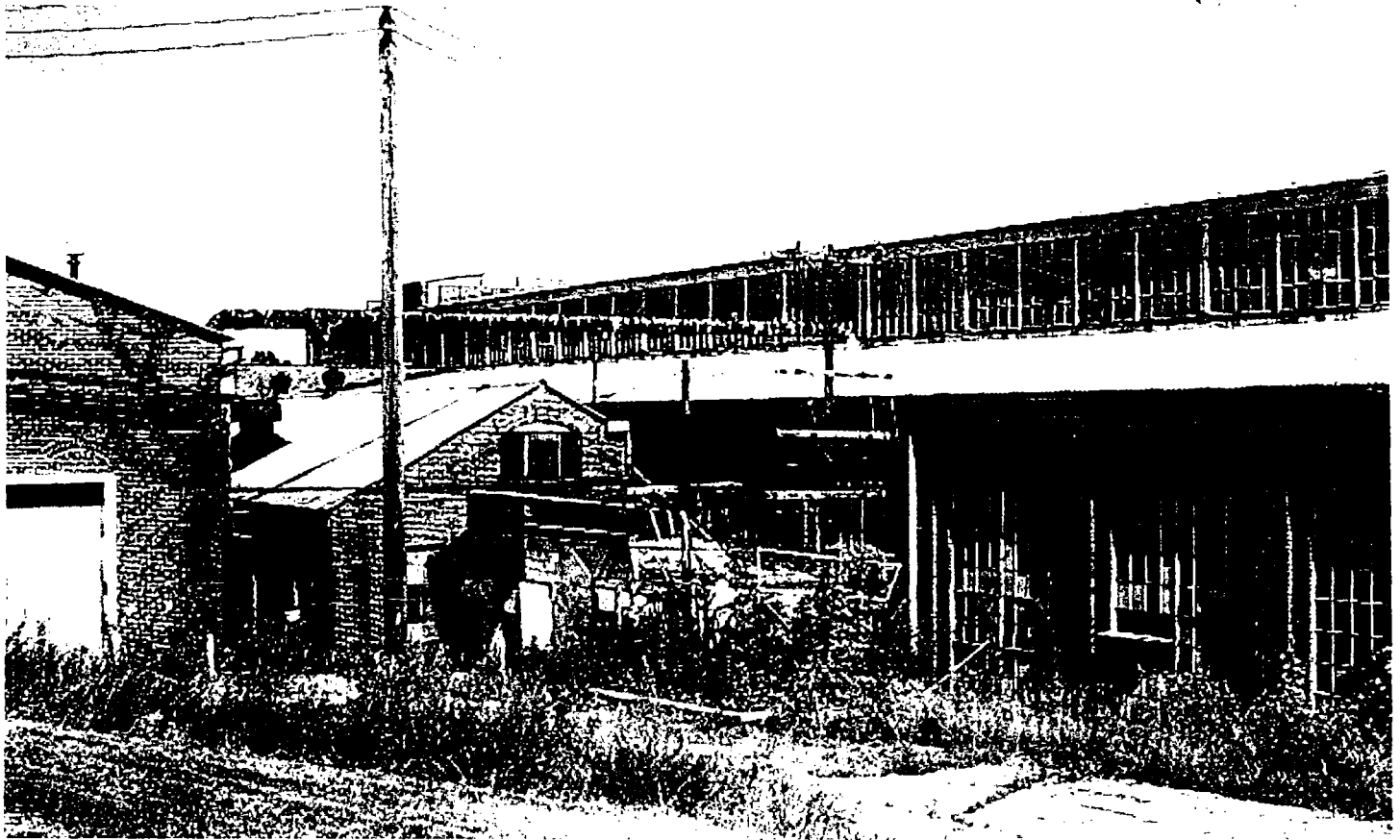




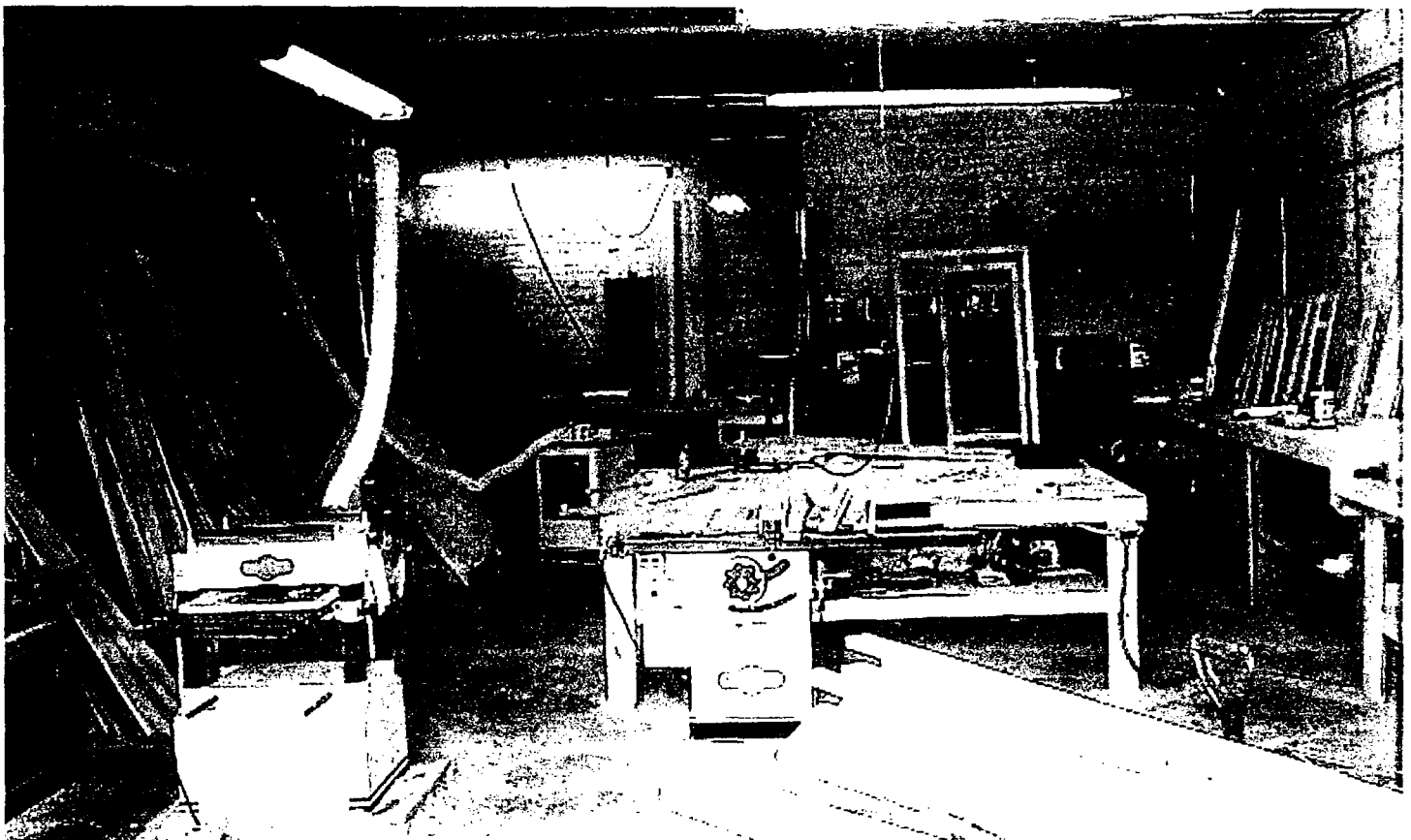
Former HPM Plant 1; 7-15-04; view of eastern end of property, fueling tank in photo is reportedly empty (E).



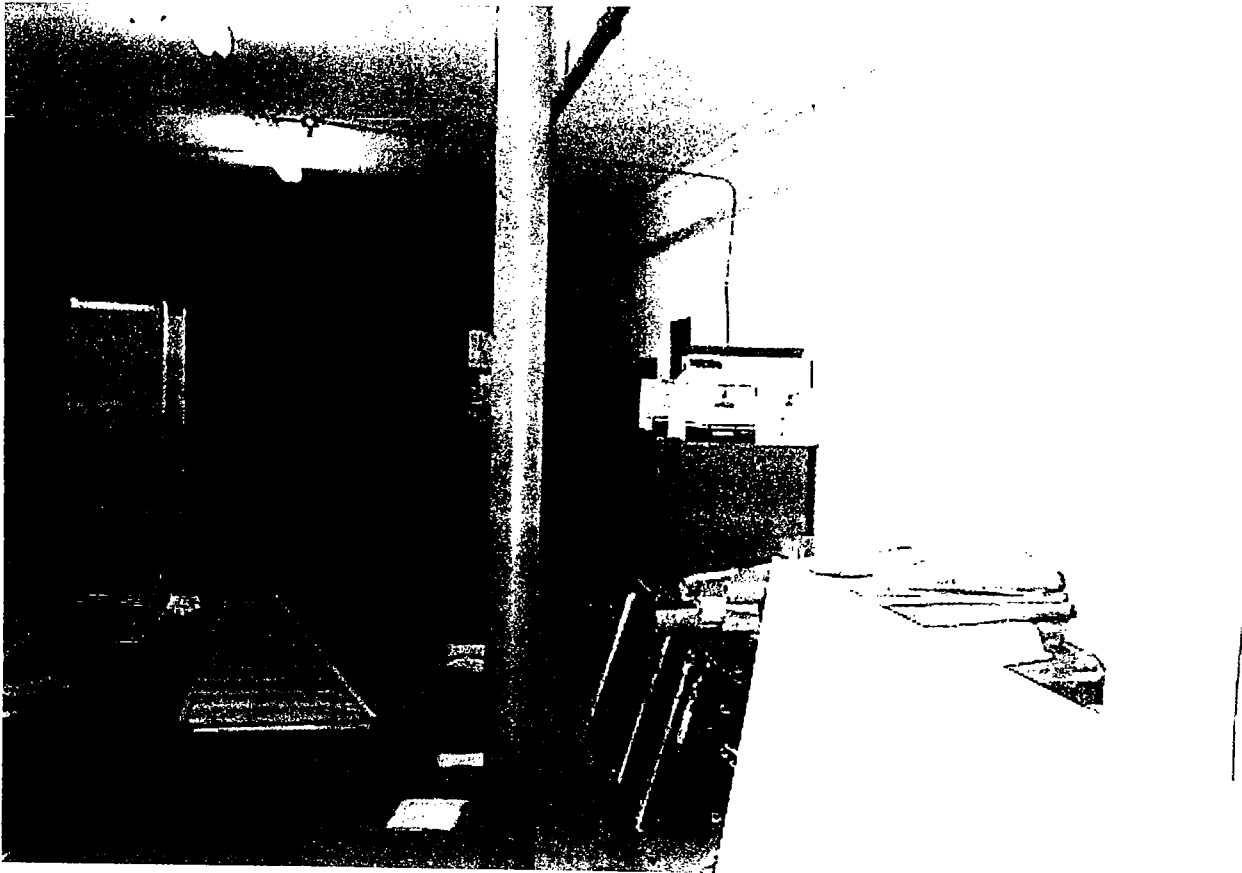
Former HPM Plant 1; 7-15-04; view of building and fueling tank located across the drive on the south side of the main building, fueling tank reportedly is empty (SW).



Former HPM Plant 1; 7-15-04; brick buildings located adjacent to the south side of the main building (NW).



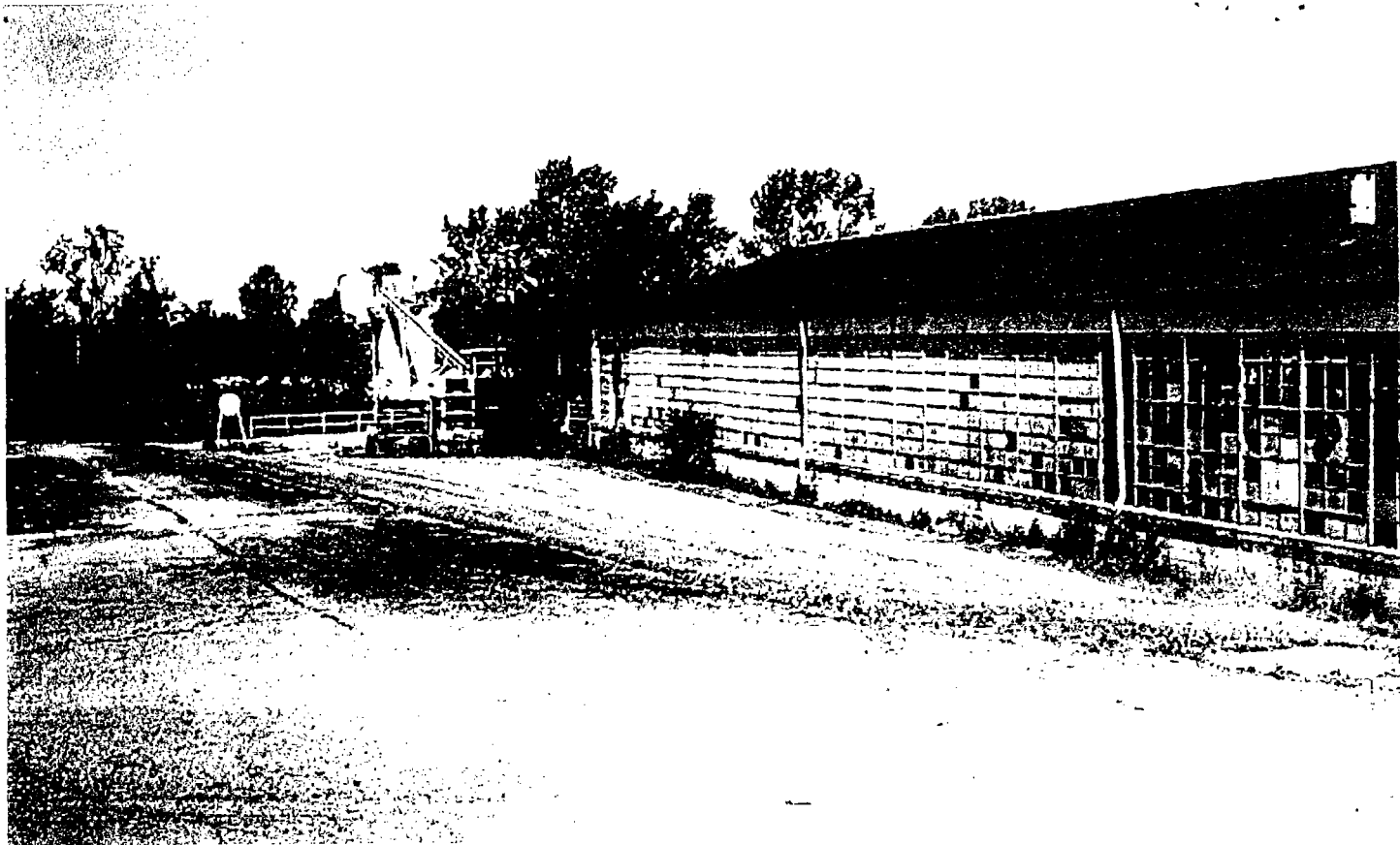
Former HPM Plant 1; 7-15-04; workshop area in building adjacent to the south side of the main building (N).



Former HPM Plant 1; 7-15-04; new office area under construction in building across plant road from south side of main building, near guard building (E).



Former HPM Plant 1; 7-15-04; new office area under construction in building across plant road from south side of main building, near guard area.



Former HPM Plant 1; 7-15-04; outside south side of main building at west end (NW).



Former HPM Plant 1; 7-15-04; guard building and gated fence on south end of property (SW).